



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

July 8, 2013

MR. MATT LEE
MUCKROCK NEWS
DEPT MR 6032
POST OFFICE BOX 55819
BOSTON, MA 02205-5819

FOIPA Request No.: 1218901-000
Subject: NEW YORK TIMES REQUESTS ON FBI
AGENTS INVESTIGATED INTERNALLY
(PROCESSING NOTES)

Dear Mr. Lee:

This is in response to your request for a fee waiver for the above referenced Freedom of Information/Privacy Acts (FOIPA) request. Requests for fee waivers are determined on a case by case basis. See 5 U.S.C. § 552 (a)(4)(A)(iii).

In order to be granted a fee waiver or a reduction in fees, two requirements must be satisfied. First, it must be established that "disclosure of the [requested] information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government." Second, it must be established that "disclosure of the information . . . is not primarily in the commercial interest of the requester." See 5 U.S.C. § 552(a)(4)(A)(iii). The burden is on the requester to show the statutory requirements for a fee waiver have been met. Where one or both of these requirements has not been satisfied, a fee waiver is not warranted under the statute.

To determine whether the first requirement has been met, we consider the following four factors: (1) whether the subject of the requested records concerns "the operations or activities of the government;" (2) whether the disclosure is "likely to contribute" to an understanding of government operations or activities; (3) whether disclosure of the requested information will contribute to "public understanding;" and (4) whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities. See 28 C.F.R. § 16.11(k)(2).

If the first requirement has been met, we are then required to determine whether disclosure of the requested information is primarily in the commercial interest of the requester. To make this determination, we consider the following two factors: (1) whether the requester has a commercial interest that would be furthered by the requested disclosure and (2) whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester." See 28 C.F.R. § 16.11(k)(3). If the requester's commercial interest in disclosure is greater than the public interest to be served, then a fee waiver is not warranted.

We have reviewed the information that you provided in support of your request for a fee waiver and have found that you do not satisfy the first requirement because you have not demonstrated how disclosure of the requested information will contribute to public understanding.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Sincerely,

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division